

6.60 SMALL AND COMMERCIAL WIND ENERGY CONVERSION SYSTEMS

6.61 INTENT: In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Gage County, Nebraska, the County finds these regulations are necessary in order to ensure that all wind energy conversion systems (WECS) are appropriately designed, sited and installed. These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. Gage County recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

6.62 TYPES OF WIND ENERGY SYSTEMS:

- A. Small Wind Energy Conversion System (SWECS) - A WECS which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use of the same parcel. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, access electrical power generated and not presently needed for onsite use may be sold back to the utility company. To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding Net Metering.
- B. Commercial Wind Energy Conversion System (CWECS) - A WECS under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.

6.63 DEFINITIONS:

- A) ADLS LIGHTING SYSTEM - A lighting system that provides reliable, continuous 360-degree radar surveillance of the airspace around sites and automatically activates obstruction lighting only when aircraft is detected within outer perimeter area.
- B) Aggregated Project - Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

- C) Church - A building that houses a religious organization or congregation that meets in a specific location with constitutions and by-laws and is a qualified 501(c)(3) organization.
- D) Fall Zone - The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.
- E) Feeder Line - Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with
- F) The electric power grid, in the case of interconnection with the high voltage transmission systems the point of the interconnection shall be the substation serving the WECS.
- G) Height, Hub - The height above grade of the fixed portion of the tower, including the generation unit measured to the hub or center point of the rotor blade diameter.
- H) Height, Total System - The height above the grade of the system, including the generating unit and the measured highest vertical extension of any rotor blades or rotors.
- I) Meteorological Tower - For the purposes of wind energy conversion systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS. Meteorological towers do not include towers and equipment uses by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.
- J) Non-participating Property - Any property that is not the subject of an agreement with the Wind Energy Conversion System Owner or Operator.
- K) Participating Property - Any property that is under lease or other property agreement with the Wind Energy Conversion System Owner or Operator.
- L) Rotor Diameter - The diameter of the circle created by the outer most point of the rotor blades of the windmill.
- M) Shadow Flicker - The strobe effect that occurs when the sun is horizontal to the rotor blades, which causes repetitive intermittent shadows that can affect people on near-by properties.
- N) Substations - Any electrical facility utilized to convert electricity produced by a CWECS for interconnection with high voltage transmission lines.

- O) Tower - The vertical component of a WECS that elevates the WTG and attached blades above the ground.
- P) Transmission Line - The electrical power lines that are High Voltage Transmission Lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- Q) Wind Energy Conversion System (WECS) - An aggregation of parts including the base, tower, generator, rotor, blades, supports and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill or wind turbine.
- R) Wind Turbine Generator (WTG) - The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

6.64 SMALL WIND ENERGY CONVERSION SYSTEM

A Small Wind Energy Conversion System (SWECS) is a facility used for the production of a maximum of one hundred (100) kilowatts of electrical energy supplied by the wind. The facility may include wind turbine(s) with total height(s) of one hundred thirty-five (135) feet or less and any transmission lines. The SWECS is primarily used to generate energy for use by its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties. To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding Net Metering.

A. General Site and Design Standards

1. Located on a lot or parcel of at least three (3) acres;
2. Shall be permitted by an approved Conditional Use Permit to be issued in the AG-1, AG-2, AG-3 and AG-4 Zoning Districts.
3. SWECS shall maintain a minimum setback distance from any property line of one and one-half (1.5) times the total system height of the turbine for nonparticipating property owners. Adjoining property owners (second or third additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers) participating in the same or Aggregated Project shall have no setback requirements between adjoining properties

4. SWECS shall maintain a minimum setback distance from any public road or highway of at least one point one (1.1) times the total system height of the windmill from the public road or highway right-of-way.
5. In no case shall a SWECS be located within any required setback or in any front yard area.
6. Turbines and towers shall be of tubular design and if painted or coated, shall be of a non-reflective white, grey or other neutral color and shall not be used to display advertising.
7. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
8. All electrical wires associated with a SWECS other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
9. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
10. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
11. The owner of a SWECS shall design and locate the SWECS to mitigate any interference with electromagnetic communications, such as internet, microwave, radio, telephone or television signals.
12. A SWECS application must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

B. Application Requirements

1. A survey map at an appropriate scale identifying:
 - Site boundary;
 - Adjacent public right-of-ways;
 - Existing structures;
 - Proposed small wind energy system and accessory structures;
 - Adjacent ownership and existing residence;
 - Any overhead utility lines;

2. A report from a licensed engineer containing:
 - a. Small wind system specifications including manufacturer and model; rotor diameter; tower height and tower type (freestanding or guyed);
 - b. Documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location;
 - c. Certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.
3. Compliance with FAA Regulations, including any documentation required by the FAA certifying approval of proposed location when located within the three (3) mile Planning Jurisdiction of any airport.
4. Signed letter of Notification by the property owner submitted to the Electrical Supplier/Purchaser, the Gage County Assessor's Office and the Gage County Zoning Administrator signifying that the utility service is approved.
5. Required proof of insurance on application.
6. Require proof of no anticipated interference with local electromagnetic providers such as internet, radio, telephone in the SWECS project area.

6.65 COMMERCIAL WIND ENERGY CONVERSION SYSTEM (CWECS):

A CWECS under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers. CWECS (s) may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

General Site and Design Standards

1. Located on a lot or parcel of at least ten (10) acres in size.
2. The entire aggregated project shall be permitted by a Special Use Permit in the following districts: AG-1; AG-2; AG-3; or AG-4.

3. If an aggregated project, setbacks from multiple entities (turbines) shall be one and one-tenth (1.1) times the height of the total system.
4. Each CWECS location must have a 911 address.
5. CWECS shall maintain a minimum setback distance from any property line of one (1) mile for non-participating property owners. Adjoining property owners participating in the same Aggregated Project shall have no setback requirements between adjoining properties.
6. CWECS shall maintain a minimum setback distance from any public road or highway of at least one point one (1.1) times the total system height of the turbine from the public road or highway right-of-way or the turbine manufacturing recommendation or whichever is greater.
7. In no case shall a CWECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by written agreement which shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Gage County Planning & Zoning Administrator prior to approval of the permit.
8. Structures for wind turbines shall be self-supporting tubular towers, if painted or coated shall be of a non-reflective neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.
9. Colors and surface treatment of the CWECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.
10. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker and blade glint affecting residences within or immediately adjacent to the project area. Shadow flicker shall not occur more than 30 minutes per day and not more than 30 hours per year from an occupied residence.
11. All CWECS projects requiring notice to the Federal Aviation Administration (FAA) via 14 CFR, Part 77 and the Obstruction Evaluation Process will be required by Gage County Zoning to submit to the FAA a

request for the Aircraft Detection Lighting System (ADLS). Upon completion of the FAA Marking and ADLS Lighting Study, if FAA has determined that an ADLS is available, Gage County Planning Commission and the Gage County Board of Supervisors shall require the ADLS be installed. Lighting shall be positioned or shielded to avoid visual impact to neighboring properties to the extent possible conforming to FAA rules.

12. The applicant shall design and locate the CWECS to mitigate any interference with electromagnetic communications, such as internet, microwave, radio, telephone, television or Gage County 911 Communication System. A beam study shall be conducted at the expense of the CWECS Applicant and a site plan must be provided to communication providers during the planning process.
13. A Meteorological Tower is permitted by a Conditional Use Permit for the purposes of the Aggregated Project. Meteorological Towers shall meet the same setback requirements of those established for an Aggregated Project. If the tower is non-functional, it shall be removed after a period of two (2) years.
14. Platted Subdivisions approved prior to 2004 and Platted Subdivisions approved through a Special Use Permit shall have a minimum of one (1) mile (5,280 feet) setback measured from the turbine to property line of the Platted Subdivision map on record with the Gage County Register of Deeds.
15. Platted subdivisions of Towns and Villages within Gage County, including those that do not have applicable zoning regulations shall have a minimum setback of three (3) miles measured from turbine to property line of the Platted Town or Village map on record with the Gage County Register of Deeds.
16. CWECS shall have a minimum setback of three (3) miles measured from the turbine to a public-school property line. At no time shall shadow flicker be observed anywhere on the school property.
17. CWECS shall have a minimum setback of one (1) mile (5,280 feet) measured from the turbine to a federal, state, or local park property line which includes, designated state and local recreation areas and wildlife management areas.

18. CWECS shall have a minimum setback of three (3) miles measured from the turbine to a public church property line. At no time shall shadow flicker be observed anywhere on the public church property.

6.66 APPLICATION REQUIREMENTS

The applicant for a conditional use permit for construction of a CWECS shall file an application with the Gage County Zoning Administrator. The application shall include the name(s) of the project applicant(s); the name of the project owner(s); the legal description and address for the project. The application shall also include the following documents:

- A. A survey map illustrating the following:
 1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation;
 2. Location and elevation of all components of the proposed CWECS;
 3. Location and dimensions of all existing structures and uses on property within three (3) miles;
 4. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or off-site of the proposed CWECS;
 5. Location of any overhead utility lines on the property;
 6. Location of all known communications towers within three (3) miles of the proposed CWECS;
 7. Access roads;
- B. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves or habitat areas to a distance of three (3) miles.
- C. Provide a copy of the Easement Deed or similar recorded document from the Gage County Register of Deeds Office for each Participating Property.

- D. Provide a map illustrating all Transmission Lines connecting to the Substation. All electrical connection systems and lines from the CWECS to the electrical grid connection shall be located and maintained underground. Burial depth shall be at a depth that causes no known environmental, land use, or safety issues. Depth shall be a minimum of six (6) feet below grade, or deeper than drain tile, and be in compliance with NEC 2017 or new code standards. The Planning and Zoning Board may waive the burial requirement and allow above-ground structures in limited circumstances, such as geography precludes, or a demonstrated benefit to the County. The waiver shall not be granted solely on cost savings to Applicant. Request for variation shall consider aesthetics, future use of land, and effect on nearby landowners.
- E. Compliance with FAA regulations, including any documentation required by the FAA, which shall include Form 7460, certifying approval of each proposed location.
- F. Provide minutes from meeting (s) with the Beatrice Airport Authority Board to discuss and review the proposed CWECS site plan.
- G. Results of Consultation with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service, or any other relevant weather monitoring in the CWES project areas.
- H. Results of consultation regarding potential interference with existing communication facilities within the CWECS project area, with proof that Applicant has designed and mitigated any possible interference and met with communication providers for proper site planning within the CWECS project area.
- I. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed and the effects on the following activities shall also be addressed:
 - 1. Existing or proposed tourist or recreation activities;
 - 2. Residential activities;
 - 3. Industrial activities;
 - 4. Agricultural activities;
 - 5. Commercial activities.

- J. Soil erosion, sediment control and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
1. Grading;
 2. Construction and drainage of access roads and turbine pads;
 3. Design features to control dust;
 4. Design features to maintain downstream water quality;
 5. Re-vegetation to ensure slope stability;
 6. Restoring the site after temporary project activities;
 7. Disposal or storage of excavated materials;
 8. Protecting exposed soil;
 9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
 10. Maintenance of erosion controls throughout the life of the project.
- K. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
 2. Critical habitat and habitat conditions ;
 3. An avian study based on the U.S. Fish and Wildlife Services, “Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines”.
- L. Provide any written technical assistance as well as minutes and reports from meeting (s) and coordination with Nebraska Game and Parks Commission, Lower Big Blue NRD and/or Nemaha NRD to review the proposed CWECS site plan including mitigation action taken to protect flora and fauna of the proposed project area.
- M. A pre-construction noise modeling study shall be conducted in accordance with procedures approved by Standard 61400-11 of the International Electro-technical Commission (IEC)*; and shall include all property within three (3) miles of an aggregated project. The protocol, methodology and noise modeling shall be included in the study. Studies shall include noise modeling for all four seasons and include typical and worst-case scenarios for noise propagation. The complete results and full study report shall be submitted to the Gage County Planning Commission for review at the time of the application.
- N. Projections of the “shadow flicker” on any existing structures located off the property on which the CWECS will be constructed and shall include the extent and duration of the shadow flicker on these existing structures. Applicant shall submit a modeling report prepared by a qualified third party establishing that no occupied residence will experience more than thirty (30) hours per year or

more than thirty (30) minutes per day of shadow flicker at the nearest external wall of residence based on “real world” or “adjusted case” assessment modeling. The owner or resident of an occupied residence may waive the shadow flicker limits, which must be on file with the Gage County Register of Deeds and included with this application.

- O. Standard drawings of the structural components of the CWECS, including structures, tower, base and footings.
- P. Certification by a registered, independent engineer that shows:
 - 1. There is a substantial need for the proposed use of CWECS, one hundred (100) kW or greater;
 - 2. All applicable local, state and federal building, structural and electrical codes have been followed;
 - 3. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Gage County;
 - 4. The rotor and over speed control have been designed for the proposed use on the proposed site;
 - 5. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
 - 6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.
- Q. Applicant shall submit a viewshed study from the Homestead National Historical Park property to the Aggregate Project. Study shall show that from any viewpoint of five feet five inches (5.5) above natural ground level anywhere on the Homestead National Historical Park, that no more than one third (1/3) of the turbine blade at maximum height may be seen.
- R. An escrow account shall be set up when the Applicant applies for a Special Use Permit for a CWECS. The monetary amount filed by the Applicant with Gage County shall be in an amount estimated by the Gage County Board of Supervisors to cover all reasonable costs and expenses associated with the special use zoning review and approval process, which can include but are not limited to any reports or studies which the Gage County Zoning Commission and/or Gage County Board of Supervisors anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Gage County Planning and Zoning Commission and/or Gage County Board of Supervisors shall

require that the Applicant place additional monies into the Gage County escrow in the event funds prove insufficient. If the escrow account needs replenished and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until Applicant makes the required escrow deposit. Any escrow amounts which are more than actual costs shall be returned to the Applicant within (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The Gage County Planning and Zoning Commission and/or Gage County Board of Supervisors may hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as, but not limited to, electrical, acoustics, environmental, economics, wildlife, health and land use.

- S. Applicant shall be required to fund an escrow account for investigation of complaints for but not limited to, shadow flicker, stray voltage, noise, and signal interference, with the amount of funds to be set at the discretion of the Gage County Board of Supervisors. When the escrow account balance is below \$5,000, Gage County shall notify the Applicant. The Applicant shall replenish within 45 days of the notification.

6.67 CONSTRUCTION AND OPERATIONS

- A. All public roads to be used for the purpose of transporting Aggregate Project materials, concrete or equipment for construction, operation or maintenance of the CWECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); Township Representative(s); Highway Superintendent(s) and/or Zoning Administrator(s). The survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's responsibility.
- B. Prior to the commencement of construction of any turbine, the Applicant shall enter into an agreement with the County Highway Department regarding use of county roads during construction. This agreement shall include traffic routes, time of the year use, staging areas, and any other physical sites related to CWECS. All roads shall be constructed and maintained to allow access, at all times, by any emergency service vehicles. The CWECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CWECS. Any violation of the agreement will incur an assessment against the Applicant for damages as determined by the Applicant and the Board of Supervisors.

- C. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

6.68 SAFETY MEASURES

- A. Each CWECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. The Planning Commission shall determine the height, color and type of fencing, if needed, for the CWECS installation. CWECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment and entrances. The sign shall contain the following information:
 - 1. Warning – high voltage;
 - 2. Manufacturer's name;
 - 3. Operator's name;
 - 4. Emergency phone number;
 - 5. Emergency shutdown procedures.
- C. Each CWECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
- D. Any CWECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked protective fence at least six (6) feet high shall enclose the tower.
- E. The CWECS operator shall procure and maintain a current insurance policy will cover liability, installation, operation, and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CWECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.
- F. An Emergency Operations Plan (EOP) must be placed on file and kept current with Gage County Zoning Administrator, Gage County Emergency Management and Fire and Rescue Department (s) within the project jurisdiction. The plan shall demonstrate an all-hazards planning approach, based on an emergency incident or disaster of any magnitude or geographic size

that may cause disruption to the function of the CWECS and include contacts for notification.

- G. Upon completion of the CWECS project, the CWECS Applicant shall meet with local Fire and Rescue jurisdictions to review the Emergency Operations Plan (EOP).

6.69 DISCONTINUATION AND DECOMMISSIONING

- A. A cash escrow account is required before the permit is approved to guarantee removal and restoration upon discontinuation, decommissioning or abandonment. The amount of the escrow shall include the current gross cost of decommissioning and restoration and the permit holder shall be responsible for the holding/setup fee. It shall be funded at a minimum of 10% increments annually until fully funded to satisfy the current projected decommissioning and restoration costs. The amount required may change when projected costs are reviewed and updated every 5 years. After being fully funded by year 10, the applicant shall continue to fund the escrow at 3% of its value for the life of the project with repeated 5-year cost reviews and updates. Any escrow amounts which are more than actual costs shall be returned to the Applicant within (90) days after the turbines have been fully decommissioned.

Upon transfer of any CWECS permit, the permit holder shall submit proof that the escrow has been reassigned. The transfer of a CWECS permit must be filed with the Register of Deeds and evidence of that filing shall be presented to the Gage County Planning and Zoning Administrator and Gage County Board of Supervisors.

- B. CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Gage County Zoning Administrator outlining the steps and schedule for returning the CWECS to service. All CWECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CWECS.
- C. Each CWECS shall have a decommissioning and restoration plan detailing the projected means and costs of removing CWECS at the end of the serviceable life or upon becoming a discontinued use and completion of property restoration. The costs estimates shall be prepared by an independent competent party approved by the Gage County Board of Supervisors, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning and restoration. The decommissioning and restoration plan and projected costs shall be reviewed and updated every 5 (five) years.

- D. At the end of the aggregated project's useful life, the entire site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

6.70 NOISE

- A. No CWECS shall exceed 55 dBA 10-minute leq at the nearest structure occupied by humans. In the event of periods of severe weather, as defined by the United States Weather Service, a CWECS may exceed 55 dBA. Except that a participating landowner may waive a noise limitation by written agreement, which shall be submitted at the time of the application.
 - 1. No CWECS shall exceed 40 dBA during day time and 37 dBA at night (night hours are 10:00 p.m. to 7:00 a.m.) at the nearest residence of a nonparticipating property; or
 - a. Three (3) dBA maximum 10-minute leq allowed above ambient noise level.
 - b. In the event of periods of severe weather, as defined by the United States Weather Service, a CWECS may exceed 55 dBA.

A non-participating landowner can waive a noise requirement by written agreement. A written waiver shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Gage County Planning & Zoning Administrator prior to approval of the permit.

- B. The Gage County Planning and Zoning Administrator and the Gage County Board of Supervisors shall require post-construction noise level measurements at the expense of the holder of the Special Permit within one (1) year of completion. The testing shall be completed by a licensed, independent acoustical engineer, and the results shall be forwarded to the Gage County Board of Supervisors. The results will be a public document subject to Nebraska's public records laws.
- C. All noise complaints regarding the operation of any CWECS shall be referred, in writing, to the Gage County Planning and Zoning Administrator and the Gage County Board of Supervisors.
- D. The Gage County Board of Supervisors shall determine whether a violation has occurred.

6.71 NONCONFORMITIES

The CWECS that was approved by Special Use Permit #2013-1 (also known as the Steele Flats Wind Project) shall be subject only to the zoning regulations applicable at the time that the Special Use Permit #2013-1 was approved and shall not be subject to any subsequently adopted regulations. This section shall not be construed to allow the addition of any structures that were not previously authorized by Special Use Permit #2013-1.

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